

**TRANSIT SERVICE DIRECT FINANCIAL PARTNERSHIP AGREEMENT
BY AND BETWEEN
KING COUNTY
AND
CHILDREN'S HOSPITAL AND REGIONAL MEDICAL CENTER**

THIS TRANSIT SERVICE DIRECT FINANCIAL PARTNERSHIP AGREEMENT (the "Agreement") is made by and between King County, a political subdivision of the State of Washington and home rule charter county with broad powers to provide public transportation within the County's geographic boundaries, by and through the King County Department of Transportation, Metro Transit Division (the "County" or "Metro Transit") and Children's Hospital and Regional Medical Center, a Washington non-profit corporation ("Service Partner" or "Children's Hospital"), both of which entities may be referred to hereinafter individually as "Party" or collectively as "Parties."

WHEREAS, in September, 2006 the King County Council adopted Ordinance 15582, the Transit Now Ordinance, directing the submission of a proposition to King County voters to fix and impose an additional sales and use tax of one-tenth of one percent to fund expansion of the King County Metro public transportation system and a variety of transit service improvements; and

WHEREAS, the Transit Now ordinance identified a number of transit service measures to be implemented using the one-tenth of one percent sales and use tax collected through Transit Now that focus on capital, operating, and maintenance improvements that are expected to expand and improve bus service on local streets and arterials within King County; and

WHEREAS, mutually beneficial contractual arrangements with other public and private entities ("service partnerships") that leverage public and private funds to provide both new and better bus service to cities and major employers is one of four key strategies (the "Service Partnership Program") identified in the Transit Now proposition approved by King County voters in the general election on November 7, 2006; and

WHEREAS, the Service Partnership Program is also designed and intended to support the service development objectives and financial strategies of the 2002-2007 King County Metro Transit Six-Year Transit Development Plan (or its successor plans), including service allocation implementation strategy IM-3; and

WHEREAS, Service Partner has submitted an application for a direct financial partnership for transit service and has met the criteria established by the County for awarding such partnerships; and

WHEREAS, the proposal submitted by Service Partner has been deemed to show a potential gain in ridership; and

WHEREAS, the proposal submitted by Service Partner has been approved by the King County Council.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES, COVENANTS AND AGREEMENTS SET FORTH HEREIN, AND FOR OTHER GOOD AND VALUABLE CONSIDERATION,

THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY ACKNOWLEDGED BY BOTH PARTIES,
THE PARTIES HEREBY AGREE AS FOLLOWS:

1. PURPOSE OF AGREEMENT

The purpose of this Agreement is to enter into a mutually beneficial contractual relationship for enhanced transit services consistent with the goals and directives of the Transit Now ordinance and initiative as authorized by King County Council Ordinance 15582 (approved in September, 2006) and passed by the voters of King County as Transit Now in the general election on November 7, 2006 to leverage sustainable local resources for transit service and to increase transit ridership.

This Agreement establishes the responsibilities of both Parties in relation to the transit service partnership, including methods for monitoring, improving and terminating the partnership.

2. COUNTY'S RESPONSIBILITIES

- 2.1 The County will provide transit service enhancements in accordance with the service specifications set forth in Attachment A, which is incorporated herein and made a part of this Agreement by this reference, pursuant to which the County and Service Partner will share the fully-allocated cost of the increased service hours at a rate of two-thirds from County funds to one-third from Partner funds, (actual contribution specified in Attachment A); provided, however, that Service Partner's annual cost contribution will not exceed \$300,000 as specified in Attachment A; and provided further, that, should such annual cost cap be reached, the County's contribution shall not be required to exceed two-thirds of Service Partner's cost contribution cap. Fully-allocated costs include the cost of fuel, maintenance, driver wages, service supervision, infrastructure maintenance, revenue collection, scheduling, rider information, data analysis; and administrative and management costs. The County's cost allocation model will be used to determine the Service Partner's contribution. The County will operate the service in accordance with its regular procedures and as may be further specified in this Agreement. The Parties understand and agree that, notwithstanding Service Partner's financial contribution, the transit service referenced herein will be open to the general public.
- 2.2 The County will include the new transit service enhancements in its annual route performance monitoring. Enhanced transit service provided via Service Partnerships will be expected to perform at or above the subarea average for its particular type of service in at least three of the following four standard indicators monitored in Metro's annual *Route Performance Report*:
- a) Rides per revenue hour;
 - b) The ratio of fare revenue to operating expense;
 - c) Passenger miles per revenue hour;
 - d) Passenger miles divided by platform miles.
- 2.3 More specific performance benchmarks applicable to the enhanced transit service provided for herein are set forth in Attachment A. Three (3) years after implementation of the enhanced transit service provided for herein, the County will make a determination as to the productivity and viability of the service. The County will notify Service Partner of its assessment of the service's productivity, performance, and ongoing viability. If the County deems that changes can be made to improve the service, the County and Service Partner will discuss possible modifications and may agree on any decisions to modify the service enhancements provided for herein; provided, however, that any such modifications shall be consistent with the requirements set forth in KCC 28.94.020(B)(2). After consultation with Service Partner, if the County determines that the enhanced service provided for herein is not viable based upon performance, and

proposed changes are insufficient to boost productivity beyond a minimum threshold as may be established, the County will notify Service Partner of its intention to terminate the Agreement.

3. SERVICE PARTNER'S RESPONSIBILITIES

Service Partner will contribute, via billings twice per year, as specified in Section 5.1 of this Agreement, at least one-third (1/3) of the fully allocated cost of the enhanced service described in Attachment A, in an amount not less than US\$100,000 per year for five (5) years to add to existing transit service or US\$200,000 per year for five (5) years to implement new transit service. The amount of Service Partner's actual yearly contributions, over and above the minimum yearly contributions specified in this Section 3.1, are to be determined by application of the cost allocation calculation specified in Attachment A.

4. TERM OF AGREEMENT AND APPROVAL BY KING COUNTY COUNCIL

The term of this Agreement is for five (5) years which shall commence on September ____, 2007 and expire at the end of that initial five year term in September, 2012 unless extended or earlier terminated pursuant to the terms of this Agreement. If after five (5) years the enhanced transit service is deemed viable by the County pursuant to the performance indicators set forth in Section 2.2 of this Agreement and the additional performance benchmarks specified in Attachment A, and Service Partner desires to have Metro Transit continue to provide the enhanced transit service beyond the initial five year period, this Agreement may be extended by the Transit General Manager for an additional five years without additional approval by the King County Council.

This Agreement is subject to review and approval by the King County Council.

5. INVOICES/PAYMENT PROCEDURES

- 5.1 The County will invoice Service Partner twice each year for its contribution, as specified in Section 3.1 of this Agreement, to the transit service provided for herein. Service Partner will receive two (2) billings each calendar year for the Service Partner's share of the actual costs incurred by the County to operate the service.
- 5.2 An estimate of the total service costs based on scheduled service hours is shown in Attachment A. This estimate will be adjusted in January each year, based on the per mile and per hour rates for that year. This adjustment will be provided to the Service Partner.
- 5.3 Service Partner shall make payment within forty-five (45) days after receipt of an invoice. Should Service Partner fail to pay the County the amount due within forty-five (45) days of receipt of a billing invoice from the County, a late payment assessment shall be applied to any outstanding balance due for that invoice. The late payment assessment shall be fixed at a rate not to exceed that allowable under Washington law.

6. INDEMNIFICATION AND LEGAL RELATIONS

- 6.1 It is understood and agreed that this Agreement is solely for the benefit of the Parties hereto and gives no right to any other person or entity. No joint venture or partnership is formed as a result of this Agreement. No employees or agents of one Party or its contractors or subcontractors shall be deemed, or represent themselves to be, employees, agents, contractors or subcontractors of the other Party.

- 6.2 Each Party shall comply, and shall ensure that its contractors and subcontractors, if any, comply with all federal, state and local laws, regulations, and ordinances applicable to the work and services to be performed under this Agreement.
- 6.3 Each Party shall protect, defend, indemnify and save harmless the other Party, its elected officials, officers, officials, employees and agents while acting within the scope of their employment as such, from any and all costs, claims, judgments, and/or awards of damages, arising out of or in any way resulting from each Party's own negligent acts or omissions. Each Party agrees that it is fully responsible for the acts and omissions of its own subcontractors, their employees and agents, acting within the scope of their employment as such, as it is for the acts and omissions of its own employees and agents. Each Party agrees that its obligations under this provision extend to any claim, demand, and/or cause of action brought by or on behalf of any of its employees or agents. The foregoing indemnity is specifically and expressly intended to constitute a waiver of each Party's immunity under Washington's Industrial Insurance act, RCW Title 51, as respects the other Party only, and only to the extent necessary to provide the indemnified Party with a full and complete indemnity of claims made by the indemnitor's employees. The Parties acknowledge that these provisions were specifically negotiated and agreed upon by them.
- 6.4 Each Party's rights and remedies in this Agreement are in addition to any other rights and remedies provided by law.
- 6.5 This Agreement shall be interpreted in accordance with the laws of the State of Washington. The Superior Court of King County, Washington, located in Seattle, Washington, shall have exclusive jurisdiction and venue over any legal action arising under this Agreement.
- 6.6 The provisions of this section shall survive any termination of this Agreement.

7. CHANGES AND MODIFICATIONS

This Agreement may be amended or modified only by prior written agreement signed by the Parties hereto.

8. TERMINATION OF AGREEMENT

- 8.1 Either Party may terminate this Agreement, in whole or in part, in writing if the other Party substantially fails to fulfill any or all of its obligations under this Agreement through no fault of the other; provided, that, insofar as practicable, the Party terminating the Agreement will give not less than 135 calendar days prior to the County's February, June or September service change, by written notice delivered by certified mail, return receipt requested, of intent to terminate.
- 8.2 In addition to termination under Paragraph 8.1 of this Section, the County may terminate this Agreement pursuant to the provisions of Paragraph 2.3 of this Agreement; provided, that Service Partner will be given not less than 135 calendar days prior to the County's February, June or September service change, by written notice delivered by certified mail, return receipt requested, of intent to terminate.
- 8.3 If either Party terminates, Service Partner will pay the County a pro-rated amount for services performed in accordance with the Agreement to the date of termination.

9. FORCE MAJEURE

Either Party shall be excused from performing its obligations under this Agreement during the time and to the extent that it is prevented from performing by a cause beyond its control, including, but not limited to:

any incidence of fire, flood, earthquake or acts of nature; strikes or labor actions; commandeering material, products, or facilities by the federal, state or local government; national fuel shortage; when satisfactory evidence of such cause is presented to the other Party, and provided further that such non-performance is beyond the control and is not due to the fault or negligence of the Party not performing. In no event, however, shall this provision eliminate the obligation to make payment to the County for work performed in accordance with this Agreement.

10. WAIVER OF DEFAULT

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of this Agreement unless stated to be such in writing, signed by authorized Parties and attached to the original Agreement.

11. ASSIGNMENT

This Agreement shall be binding upon the Parties, their successors, and assigns; provided, however, that neither Party shall assign or transfer in any manner any interest, obligation or benefit of this Agreement without the other's prior written consent.

12. NO THIRD PARTY BENEFICIARIES

Nothing in this Agreement, express or implied, is intended to confer on any person or entity other than the Parties hereto and their respective successors and assigns any rights or remedies under or by virtue of this Agreement.

13. MUTUAL NEGOTIATION AND CONSTRUCTION

This Agreement and each of the terms and provisions hereof shall be deemed to have been explicitly negotiated between, and mutually drafted by, the Parties, and the language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either Party.

14. ALL TERMS AND CONDITIONS

This Agreement merges and supersedes all prior negotiations, representations and agreements between the Parties related to the subject matter hereof and constitutes the entire agreement between the Parties. This Agreement may be amended only by written agreement of both Parties.

This Agreement contains all the terms and conditions agreed upon by the Parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the Parties hereto.

15. CONTACT PERSONS

The County and Service Partner shall designate a contact person for purposes of sending inquiries and notices regarding the execution and fulfillment of this Agreement.

	Service Partner
Contact Name	Stephanie Frans

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April 24, 2007

Title	Manager, Commute Services
	Children's Hospital
Address	4800 Sand Point Way, NE
	Seattle, WA 98105
Telephone	(206) 987-1297
Fax	(206) 987-5061
E-Mail	Stephanie.Frans@seattlechildrens.org

	King County
Contact Name	Matt Hansen
Title	Supervisor, Market Development
	King County Metro Transit
Address	400 Yesler Way
	YES-TR-0600
	Seattle, WA 98104
Telephone	(206) 263-3598
Fax	(206) 684-2058
E-Mail	Matt.hansen@metrokc.gov

IN WITNESS WHEREOF:

The Parties hereto have executed this Agreement on the _____ day of _____, 2007.

CHILDREN'S HOSPITAL AND REGIONAL MEDICAL CENTER

By_____

Title_____

KING COUNTY

By_____

Title_____

ATTACHMENT A**Direct Financial Service Partnership Scope of Work
Children's Hospital and Regional Medical Center****A. Minimum Actions***1. Minimum Actions to be Undertaken by Service Partner*

Service Partner agrees to contribute \$234,767 per year (\$253,359 with 10% contingency) for five (5) years for additional service on Routes 75 and 25 as defined below in Section C, "Service Description," of this Attachment A. The actual annual cost Service Partner agrees to pay on an annual basis shall be determined in accordance with Section 5.2 of this Agreement.

2. Minimum Actions to be Undertaken by County

The County will advertise the new service via its normal marketing channels, including timetables in customer service kiosks throughout King County and, particularly, at Children's Hospital, Metro Transit's website, and information signs at bus stops.

B. Supporting Actions

1. Service Partner agrees to implement additional actions that are likely to increase ridership on the new services, including promotions, incentives, parking management and other activities. The following activities included in Service Partner's current program (or similar activities) will be continued:

a. Promotion

- Provide promotional materials about commute alternatives to employees.
- Promote bus service to employees, with special attention on new service.
- Provide bus maps, timetables, and bike maps.
- Provide employee assistance in commute planning.

b. Incentives to employees

- Provide a free transit pass for employees.
- Provide a 100% subsidy for employees who vanpool.
- Provide a commute bonus for using specified commute alternatives.
- Provide Flexcar(s) on-site for employee use in running business errands and attending off-site meetings.
- Provide shuttle between Children's Hospital main campus and primary satellite worksites.
- Provide covered bicycle racks and cages.

- Provide subsidized annual tune-ups and basic repair supplies for employees who commute by bicycle.
- Provide showers and clothes lockers for employees who bicycle, walk, or motorcycle.
- Provide Guaranteed Ride Home for employees who use alternative commute modes.

c. Parking management

Charge employees for single occupancy vehicle (SOV) parking.

Provide free, reserved parking for vanpools.

Provide free preferential parking for qualified carpools.

2. The County agrees to undertake the following supporting actions:

a. Additional promotion of service

Designate new trips funded by partnership in the bus timetables for the affected routes.

Work with Service Partner to promote transit use on the enhanced service routes.

C. Service Description

County and Service Partner agree to share in the cost and responsibilities of adding to service on routes 75 and 25. The intent of these service enhancements is to provide additional trips on routes that serve Children's Hospital in order to allow a larger number of Children's Hospital employees to commute to and from the Children's Hospital campus by bus. The trips added to the route 75 schedule would bring this route closer to being a full-time, seven-day-a-week route with a minimum level of service of 30 minutes during its entire span. It would enable employees to rely on this route, regardless of the time of day or day of the week on which they work. The trips added to route 25 would allow riders, particularly those coming from the Eastside via SR-520 and Montlake, to reach the Children's Hospital campus by making only one transfer.

Route 75

Route description: The eastern half of route 75 operates between Northgate, Lake City, Sand Point, and the University District. Children's Hospital plans to improve only this portion of the route.

Route 25

Route description: Route 25 operates between downtown Seattle and Laurelhurst via North Capitol Hill and the University District.

D. Service Costs

(Based on spreadsheet attached hereto as Exhibit 1 entitled "Preliminary Cost Estimate," which is incorporated into and made a part of this Agreement by this reference.)

Total annual hours: 6671 (7338 with 10% contingency)

Estimated fully-allocated annual cost (County's + Service Partner's cost):

\$704,301

\$760,077 (with 10% contingency)

Service partner's estimated annual share of fully-allocated annual cost:

\$234,767

\$253,359 (with 10% contingency)

Service Partner annual limit on costs under this Agreement: \$300,000

E. Benchmarks for Evaluating Route Performance

Metro has a consistent, formal route performance evaluation process to identify individual routes that may require modification, expansion or termination. Routes are grouped by subarea and time period for similarity in operating conditions. Each partnership route will be compared by time period to other routes in its subarea to ascertain performance level. Data for a particular year is typically available by the middle of the following year. The comparison will be made at the time the data is available.

A group of routes will have both "strong" and "below minimum" performance routes, as defined by thresholds based on the average performance of the group. Routes at the extremes of performance are considered for changes. Routes with "strong performance" are considered for expansion; "below minimum performance" routes are evaluated for changes to improve performance, or for discontinuation if performance does not improve after changes are tried.

The benchmarks for the service additions applicable to this Agreement are as follows:

West Subarea – Peak (applies to most of the route 25 trips)

Rides/revenue hour: Strong - 72.1; weak - 33.9

Fare revenue/operating expense: Strong - 37%; weak - 15%

Passenger miles/revenue hour: Strong – 298; weak – 89

Passenger miles/platform miles: Strong – 14.5; weak – 6.5

West Subarea - Off-peak (applies to the route 75 weekend service before 6 p.m.)

Rides/revenue hour: Strong - 72.9; weak 30.7

Fare revenue/operating expense: Strong – 32%; weak – 13%

Passenger miles/revenue hour: Strong – 207; weak – 87

Passenger miles/platform miles: Strong – 15.9; weak – 6.5

West Subarea – Night (applies to route 25 and route 75 evening trips)

Rides per revenue hour: Strong – 44.6; weak 20.4

Fare revenue/operating expense: Strong – 18%; weak – 7%

Passenger miles/revenue hour: Strong – 150; weak – 53

Passenger miles/platform miles: Strong - 9.2; weak - 3.4

Performance Measures on Routes 25 and 75, Fall 2005

Route	Period	Rides/Rev Hour	FR/OE	Pass Miles/Plat Mile	Pass Miles/Rev Hr	Rides/Rev Mile
25	OffPeak	20.12	9.59%	6.45	77.66	1.67
25	Peak	29.23	18.55%	6.66	91.34	2.57
75	Night	31.69	12.32%	6.74	115.92	2.11
75	OffPeak	50.11	22.21%	12.37	173.92	3.67

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April 24, 2007

EXHIBIT 1

Preliminary Cost Estimate

Route	Day	Direction	Time		Description	# of trips	Est'd hours	Rate/hour	Est'd miles	Rate/mile	Total Cost
								\$83.61		\$2.16	
75	M-F	south	5:15	A.M.	Northgate to UW	1	233	\$19,481.13	2,438	\$5,266.94	
75	M-F	both	6:30- midnight	P.M.	Between Northgate and UW	11	2743	\$229,342.23	26,822	\$57,936.38	
75	M-F	north	7:31	A.M.	Between UW and Northgate	1	132	\$11,036.52	2,438	\$5,266.08	
75	Sat	both	6:00-8:30	A.M.	Between Northgate and UW	8	310	\$25,919.10	3,994	\$8,626.18	
75	Sat	both	7:00-8:30	P.M.	Between Northgate and UW	4	203	\$16,972.83	1,997	\$4,313.09	
75	Sun	both	6:30-8:00	all day	Between Northgate and UW	32	1846	\$154,344.06	19,622	\$42,383.36	
25	M-F	north	6:00-7:00	A.M.	Montlake to U Dist	2	81	\$6,772.41	579	\$1,250.90	
25	M-F	north	5:44	A.M.	CBD to Laurelhurst	1	157	\$13,126.77	2,697	\$5,826.56	
25	M-F	north	6:30	P.M.	CBD to Laurelhurst	1	449	\$37,540.89	2,697	\$5,826.56	
25	M-F	south	6:30	P.M.	Laurelhurst to CBD	1	191	\$15,969.51	1,979	\$4,273.91	
25	M-F	south	7:45	P.M.	Laurelhurst to CBD	1	326	\$27,256.86	2,578	\$5,568.70	
			Subtotal			63	6671	\$557,762.31	67,842	\$146,538.64	\$704,300.95
			W/ 10% contingency				7338	\$613,538.54			\$760,077.19
											\$469,533.97
King County Metro Transit contribution											\$234,766.98
Children's Hospital contribution											
W/ 10% hour contingency											

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April 24, 2007

King County Metro Transit contribution	\$506,718.1 2
Children's Hospital contribution	\$253,359.0 6